PATENT
92/D03-016A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	SCHULTE et al.
U.S. Serial No.	:	10/754,812
Filed	:	January 9, 2004
Title	:	Resilient Retention System for a Door Panel
Art Unit	:	3634
Examiner	:	Gregory J. Strimbu

) I hereby certify that this paper (and/or
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) **March 6, 2008**
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) _____ / Larry J. Palguta /
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RULE 132 DECLARATION
OF PETER S. SCHULTE, PERRY KNUTSON,
RODNEY KERN, BILL HOERNER, AND
ALLAN H. HOCHSTEIN

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We, Peter S. Schulte, Perry Knutson, Rodney Kern, Bill Hoerner, and

Allan H. Hochstein, hereby declare and state:

1.   We are the named inventors of the above-referenced patent

   application.

2.   We are advised that the United States Patent & Trademark Office

   recently issued an Office action, dated September 6, 2007, rejecting claims

   34, 38-42 and 45, 46, 48-54 and 56 under 35 U.S.C. 103(a) as being

   unpatentable over Delgado et al. (U.S. Patent Publication No. US

   2005/0076570) as applied to claims 31-33, 36, 37 and 44, and further in

   view of Linstadt (U.S. Patent No. 1,802,519). The Delgado Patent was

filed on April 19, 2004, and published on April 14, 2005. The Linstadt

Patent was filed on April 2, 1928, and issued on April 28, 1931.

3. Independent claim 45 relates to a door comprising, inter alia, an

upper track, a door panel, a lower track, a panel retention system and a

resilient connection. Claim 45 specifies that the lower track is attachable

to the wall such that no portion of the lower track extends into the path of

pedestrian or vehicle travel. Further, claim 45 specifies that the panel

retention system remains in contact with the lower track even if the impact

exceeds a predetermined magnitude and the door panel moves out of the

predetermined normal path.

4. We have reviewed the Office action's argument that it would have

been obvious to one of ordinary skill in the art to provide Delgado with a

retention system, as taught by Linstadt, to enable the door to automatically

return to its predetermined normal path. We disagree. Delgado describes

a door, a rigid beam, a guide, and a guide follower, which is substantially

rigid. Additionally, because these components are substantially rigid, the

guided follower 23 is adapted to disengage and release the guide 22 when

sufficient force is applied to the door panel 14 (pg. 3, para. 0043), and,

thus, providing Delgado with a retention system goes against the specific

teachings in Delgado.

5. If this teaching is ignored, providing Delgado with a panel

retention system that remains in contact with the lower track even if the

impact exceeds a predetermined magnitude and the door panel moves out

of the predetermined normal path would require an inventive step (e.g.,

real innovation). These inventive steps, include, but are limited to:

positioning the panel retention system so that it does not create a tripping

hazard or get damaged by vehicles traveling through or near the door;

providing a resilient connection that prevents the door panel from

deviating from a predetermined normal path if an impact force is not

exceeded, but allows the door panel to deviate from the predetermined

normal path when the impact force exceeds a predetermined magnitude

without substantial damage to the panel or panel retention system; and

providing a resilient connection that returns the door panel to the

predetermined normal path when the impact force no longer exceeds the

predetermined magnitude.

6.   Linstadt states that "the primary object of this invention is to

provide a barn door bottom track and guide which will effectively hold the

lower part of the door in position against the door sill and which is of such

construction that cattle passing over the sill will not damage the tract" (pg.

1, ll. 4-10). To hold the lower part of the barn door in position against the

door sill while preventing the barn door from binding during opening and

closing, the barn door includes a holding member 12 that is coupled to the

bottom of the barn door near the leading edge (i.e., the front edge of the

door), which perpendicularly engages the bottom of the door face with a

face strip 7 of the door sill 6, and, thus, a force is transmitted to the bottom

front corner of the barn door. Additionally, as shown in FIGS. 1 and 2 of

Linstadt, to allow for the force to be transmitted to bottom front corner of

the barn door in all door positions (e.g., an open and/or closed position),

the holding member engages a lower track (8), which is disposed within

the width of the doorway.

7.   No where in Delgado and/or Linstadt describes a door including an
upper track, a door panel, a lower track, a panel retention system and a
resilient connection, where the panel retention system remains in contact
with the lower track even if an impact exceeds a predetermined magnitude
and the door panel moves out of a predetermined normal path. Further, no
where in Delgado and/or Linstadt describes a lower track that is attachable
to a wall such that no portion of the lower track extends into the path of
pedestrian or vehicle travel. There is no teaching or suggestion that the
combination of Delgado and Linstadt would result in a Resilient Retention
System for a Door Panel that has the claimed characteristics. Further, the
Office action fails to provide a rationale for combing Delgado and
Linstadt.

8.   An example falling within the scope of this claim is found in the
specification, for example, FIG. 1 of our application illustrates a track
follower 44 that is disposed above the floor that can slide or otherwise
move along a lower track 42 that is disposed entirely outside the width of
the doorway. "If an external force 60 forces panel 14 beyond its
predetermined normal path 62 (FIG. 5), elongate member 56 is pulled out
from within tube 50, which stretches spring 48. The resulting tension in
spring 48 and elongate member 56 resiliently and automatically returns
panel 14 back to its normal path 62 once force 60 is removed" (pg. 3, para.
58). Still further, to adjust the preload or initial load in spring 48, the
distance between lower end 58 and track follower 44 can be adjusted by
using a conventional buckle or clasp 66 to vary the effective length of
elongate member 56 (pg. 3, para. 59).

9.　　　　In developing the Resilient Retention System for a Door Panel, we researched and tested a wide variety of springs, straps, cables, and other unique components. Additionally, we researched and tested how to optimally package and position the panel retention system and the resilient connection to avoid creating a tripping hazard or damage the panel retention system by vehicles traveling through or near the door, which proved to be extremely challenging because we were positioning the panel retention system outside the doorway while providing the resilient connection with enough force to be able to prevent the door panel from deviating from a predetermined normal path if an impact force is not exceeded.

10.　　　　Additionally, providing either Delgado or Linstadt with a panel retention system that has a lower track that is entirely outside the width of the door would have proven difficult and create unpredictable results, because, instead of having a force act directly on the bottom front corner of the door, as in Linstadt, the force comes entirely from outside of the doorway. Additionally, it would have proven difficult to provide a resilient connection with enough force to be able to prevent the door panel from deviating from a predetermined normal path if an impact force is not exceeded while still providing sufficient resiliency to allow the door panel to deviate from the predetermined normal path when the impact force exceeds a predetermined magnitude.

11.　　　　Evidence in the industry that there was a persistent defect in the prior art that is solved by as the Resilient Retention System for a Door Panel includes, but is not limited to: past systems did not prevent the door

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panel from deviating from a predetermined normal path if an impact force

is not exceeded; and/or past systems did not return the door panel to the

predetermined normal path when the impact force no longer exceeds a

predetermined magnitude; past systems created a tripping hazard and/or

were damaged by vehicles traveling through or near the door.

12.   We understand that willful and false statements and the like are

punishable by a fine and/or imprisonment under 18 U.S.C. § 1001, and

that such willful false statement may jeopardize the validity of this

application and any patent resulting therefrom.

Date: 3-5-08   By: _____
                           Peter S. Schulte

Date: 3/5/08   By: _____
                           Perry Knutson

Date: 3-5-08   By: _____
                           Rodney Kern

Date: 3/5/08   By: _____
                           Bill Hoerner

Date: _____   By: _____
                           Allan H. Hochstein

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the Resilient Retention System for a Door Panel includes, but is not limited to: past systems
did not prevent the door panel from deviating from a predetermined normal path if an impact
force is not exceeded; and/or past systems did not return the door panel to the predetermined
normal path when the impact force no longer exceeds a predetermined magnitude; past
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